



APA Amendments Cause Extension Of Rule 260.204.9 Comment Period

By [Keith Paul Bishop](#) on February 8, 2012

Last December, I wrote this [post](#) concerning the Commissioner's proposed amendments to Rule 260.204.9. This rule provides an exemption from registration for investment advisers to certain private funds. The rule as currently in effect was adopted as an emergency regulation.

As required by the California Administrative Procedure Act, the Commissioner mailed notice of the proposed rule amendments in December of last year. However, "tomorrow, and tomorrow, and tomorrow, creeps in this petty pace from day to day". With the new year, [Senate Bill 617](#) (Calderon), Chapter 496, Statutes of 2011, took effect. This bill amended the APA to impose new requirements on notices of rulemaking action and initial statements of reasons. As a result, the Notice of Rulemaking Action published by the Department in January, 2012 was different from that mailed in December, 2011. [Here](#) is the revised notice of rulemaking as published in the California Regulatory Notice Register (aka "Z-Register") in January. (If you're not familiar with the Z-Register, see "[What is, What Will Be & What's Passed – The CCR, Z-Register and Register](#)".

The changes in the Notice of Rulemaking Action are as follows:

- An evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations was included.
- An economic impact analysis statement requirement pursuant to Government Code section 11346.3(b) was included.

The following amendments were made to the Initial Statement of Reasons:

- An economic impact analysis statement was added, pursuant to Government Code section 11346.3(b).
- Information regarding the studies, reports, and documents relied upon was clarified, pursuant to Government Code sections 11346.2(b)(3) and 11347.3(b)(7).

As a result of these changes, the Commissioner has announced that the comment period with respect to Rule 260.204.9 has been extended to March 25, 2012.

Please contact [Keith Paul Bishop](#) at Allen Matkins for more information kbishop@allenmatkins.com